IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 19.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal Nos.1874 to 1876 of 2000

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

2.The Special Tahsildar,
(Land Acquisition),
Housing Scheme,
Hosur,
Dharmapuri District. ... Appellants in all WPs.

Vs.

1.V.Nagaraj

2.Jaya .. Respondents in WA.1874/2000

B.M.Ambavathy .. Respondents in WA.1875/2000

Narasimmaiah, rep. by its
Power of Attorney Mr.N.Rajendran .. Respondents in WA.1876/2000

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Writ appeals filed under Clause 15 of the Letters Patent against the order dated 21.06.1999 made in W.P.No.12577 to 12579 of 1994.

WP.Nos.12577 to 12579 of 1994 :

Petitions presented to this Court under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondents pursuant to the notification issued under Section 4(1) in GO.Ms.No.300/Housing and Urban Development Department dated 04.03.91 and published the same in the Tamil Nadu Govt.Gazettee on

https://hcservices.ecourts.gov.in/hcservices/

24.04.91 and section 6 Declaration issue in GO.Ms.No.386/Housing and Urban Development Department dated 25.06.92 and publised the same in The Tamil Nadu Govt. Gazettee dated 26.06.92 in respect of the petitioners Land in

1. S.No.661/02 of extent of 0.03 cents,
2. S.No.661/1 of extent of 2400 Sq.Ft.
3. S.No.661/1/f of extyent of 5 1/2 cents respectively.

Hosur Taluk Dharmapuri District and quash the said proceedings in so far as the respective petitions are concerned.

For Appellants in all WAs. : Mr.P.Subramanian, Govt. Advocate
For 1st respondent in all WAs. : Mr.P.Jagadeesan
For 2nd respondent in WA.1874/2000 : No appearance

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeals are directed against the order of the learned single Judge dated 21.06.1999 made in W.P.No.12577/94, in and by which, the learned single Judge, after finding that there is no compliance of Rule 3(b) of the Land Acquisition Act, has quashed the acquisition proceedings and allowed all the three writ petitions.

2. Heard the learned Government Advocate appearing for the appellants as well as the respondents.

3. The only point for consideration in these appeals is whether there is compliance of Rule 3(b) of the Land Acquisition (Tamil Nadu) Rules (hereinafter referred to as "the Rules). Among the several contentions on behalf of the petitioners, it was projected before the learned single Judge that though they have filed their objections to the acquisition proceedings, their objections were forwarded to the requisitioning body, Housing board, but their views were not communicated to the petitioners/land owners and thereafter no further enquiry was conducted by the Land Acquisition Officer in terms of Rule 3(b) as it stood at the relevant time.

4. The learned Government Advocate has contended that the respondents have fully complied with the provisions of Rule 3(b). Though a statement was made to that effect, the same was not substantiated by placing relevant dates such as, the last date of notification under Section 4(1) of the Tamil Nadu Land Acquisition Act, the date on which the petitioners

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have submitted their objections etc. Even in the grounds of appeal, the appellants have not specifically mentioned when the objections were submitted by the petitioners and when the same were forwarded to the requisitioning body and when the requisitioning body offered their remarks. Among the three grounds raised in the memorandum of grounds of appeal, the second ground is relevant, which reads as under:

> "2.The learned Judge ought to have seen that the objections submitted by the writ petitioner were forwarded to the requisitioning body on .... and the remarks of the requisitioning body were also forwarded to the objectors on ... and hence, there was no violation of Rule 3(b) of the Land Acquisition Act."

5. The above information amply shows that the appellants are not very much interested in questioning the order of the learned single Judge. When they are having enough materials to show that there is compliance of Rule 3(b), it is but proper on their part to furnish the required particulars, such as, the last date of notification under Section 4(1) of the Act, the date on which the petitioners have submitted their objections, when the same were forwarded to the requisitioning body and when the Land Acquisition Officer has received the same etc. In the absence of such factual details, the claim of the appellants that there is compliance of Rule 3(b), cannot be accepted. When the learned single Judge, on verification of the records, has arrived at a conclusion that the said mandatory provision viz., 3(b) of the Rules, has not been complied with, in the absence of materials, we have no other option, except to confirm the factual conclusion arrived at by the learned single Judge. Accordingly, all the writ appeals are dismissed. No costs.

6. Learned counsel appearing for the respondents/land owners has submitted that inasmuch as the scheme has not been implemented so far and of the fact that they had constructed small house and residing therein, their lands may be exempted from the purview of the proceedings. The same cannot be considered by this Court at this juncture. However they are free to make a representation to the Government highlighting their grievance. It is further made clear that if any such representation is made, the Government is directed to dispose of the same in accordance with law expeditiously.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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raa

To

1.The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

2.The Special Tahsildar,
(Land Acquisition),
Housing Scheme,
Hosur,
Dharmapuri District.

1 cc To Mr.P.Jagadeesan, Advocate, SR.49167.
1 cc To The Government Pleader, SR.49463.

W.A.Nos.1874 to 1876 of 2000

PV(CO)
RVL 02.11.2006

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